

VZCZCXRO8703
PP RUEHCN RUEHGH RUEHVC
DE RUEHIN #0109/01 0230948
ZNR UUUUU ZZH
P 230948Z JAN 08
FM AIT TAIPEI
TO RUEHC/SECSTATE WASHDC PRIORITY 7969
INFO RUEHOO/CHINA POSTS COLLECTIVE
RUCPDO/USDOC WASHDC

UNCLAS SECTION 01 OF 02 TAIPEI 000109

SIPDIS

SENSITIVE
SIPDIS

STATE PLEASE PASS TO AIT/W AND EAP/RSP/TC

STATE PASS USTR/DAVID KATZ AND JARED RAGLAND

USDOC FOR 4430/ITA/MAC

E.O. 12958: N/A

TAGS: [ECON](#) [ETRD](#) [KIPR](#) [TW](#)

SUBJECT: Taiwan IPR: DVC Focuses on ISP Law, IP Court

Reftel: Taipei 49

Summary

11. (SBU) On January 15, as part of an ongoing dialogue under the bilateral Trade and Investment Framework Agreement (TIFA), U.S. and Taiwan experts held a digital video conference (DVC) focused on intellectual property rights (IPR) issues. The meeting was constructive and friendly, and provided an opportunity for U.S. experts to question Taiwan counterparts about progress in implementing the recently-passed Peer-to-peer (P2P) law as well as the Ministry of Education (MOE) Campus IP Action Plan. The U.S. side also raised concerns about MOE willingness to both receive and share information on enforcement efforts with right holders. USTR enquired about Taiwan Intellectual Property Rights Office (TIPO) efforts to draft amendments to the Copyright Law that would limit an Internet service provider's (ISP) liability if the ISP quickly removed IPR-infringing material, and requested that TIPO accept another round of feedback from the USTR on the current version of the amendments. TIPO passed this current version to the U.S. side on January 22. End Summary.

Introduction

12. (SBU) On January 15, about 20 officials from the Taiwan Intellectual Property Office (TIPO), Ministry of Justice, Judicial Yuan, Office of Trade Negotiation (OTN), Board of Foreign Trade (BOFT), and the Ministry of Economic Affairs (MOEA) met via DVC with officers from USTR, AIT/W, State, Commerce, and the Copyright Office to discuss a TIPO-proposed amendment to Taiwan's Copyright Law and get an update on recent IPR developments in Taiwan. The U.S. team was headed by Jared Ragland, Director, Intellectual Property and Innovation, USTR. In Taiwan, the discussion was led by Margaret Chen, Deputy Director General of TIPO. This DVC was part of the ongoing bilateral IPR dialogue.

IP Court, IP Action Plan

13. (SBU) The first issue on the DVC agenda was a status report from the Taiwan side on the implementation of the specialized Intellectual Property (IP) Court. Judge Wei-xin Lee of the Judicial Yuan reiterated that the Court will open as scheduled on July 1, and will be staffed by eight IP-specialist judges, up to 15 TIPO patent examiners, and three prosecutors. Lee expects that the Court will handle 2200 to 3000 cases per year.

14. (SBU) The Court will handle appeals from criminal copyright and trademark infringement cases, as well as administrative cases of

copyright, patent, and trademark infringement. [Note: there are no criminal patent cases under Taiwan law. End note.] For civil cases, the Court can act as both the court of first instance as well as a court of appeals for copyright, patent, and trademark cases. Mr. Lee explained that cases currently in the court system will not be able to switch venues mid-trial to the new IP Court, but plaintiffs and defendants in cases closed by June 13 who decide to file appeals after July 1 may use the new Court.

Next Steps for ISP Legislation

15. (SBU) The 2007 Legislative Yuan (LY) session ended before TIPO could finalize and send to the LY amendments to the Copyright Law that would limit an ISP's liability if the provider meets certain conditions, including quickly removing IPR-infringing material (reftel). TIPO Secretary General Margaret Chen told the U.S. side that TIPO will send the amendments to the Copyright Law back to the Executive Yuan (EY) for consideration by the end of April. If the EY approves the amendment, the changes would then move to the LY for consideration.

16. (SBU) TIPO--which has given the United States several opportunities to comment on the proposed Copyright Law amendments--again agreed to accept U.S. comments on the current version of the draft Law. Ragland thanked Chen for this additional opportunity and said that the U.S. side would get comments back to TIPO by the end of January. TIPO agreed to provide the United States the current text of the proposed amendments. [Note: TIPO provided the updated draft amendments to AIT on January 22. End note.]

Campus IP Action Plan Status Report

TAIPEI 00000109 002 OF 002

17. (SBU) The MOE Director of Student Affairs Committee Chih-chung Yang explained that the Action Plan was achieved through consensus between the stakeholders, including the Ministry, the universities, student groups, and right holders, and that all stakeholders would continue to have twice-yearly opportunities to provide comment and feedback to each other about the Plan's progress. Yang added that cases of alleged infringement on the island-wide Taiwan Academic Network (TANet) fell from 476 and 343 in the first and second quarters of 2007, respectively, to 166 and 194 cases in the latter two quarters, which the MOE sees as a good sign for implementation efforts.

18. (SBU) In response to Ragland's comment that right holders feel they do not have an effective channel to provide comments to the Ministry and are not receiving responses from the MOE on progress implementing the Plan, particularly on MOE actions in response to specific information on infringing activities provided by industry, Yang re-iterated that the Ministry views such opportunities as being sufficient, and added that some of the information on specific TANet infringements that IFPI and other right holders have provided the MOE has been inaccurate. Ragland thanked the MOE for its efforts, encouraged more frequent coordinating meetings with stakeholders to more effectively implement the Action Plan, and asked for further reporting on the Plan's progress as available.

APEC Campus IP Plan: Whose Idea Anyway?

19. (SBU) Regarding Taiwan's expressed support for the United States to lead a Campus IP initiative within APEC, Ragland and Katz both apologized for Taiwan having the impression that the United States had proposed launching an initiative. Ragland added that the February APEC Intellectual Property Experts Group (IPEG) meeting that will be held in Peru will be a good opportunity for the two sides to meet informally to brainstorm on ideas for such a possible initiative.

ACTA: Too Early for Specifics

¶10. (SBU) Regarding the current status of the Anti-Counterfeiting Trade Agreement (ACTA) initiative under discussion by the United States, Japan, the European Union, and others, Ragland thanked TIPO for its interest and support, but noted that the initiative is still very much in the pre-negotiation stages, and that he did not have specific information on the initiative to share at the time.

Comment

¶11. (SBU) The DVC was constructive and friendly, and TIPO seemed to clearly understand the specific concerns that USTR passed to the Taiwan side in December regarding TIPO's proposed ISP legislation. Although they did not make any commitments to alter the legislation, TIPO promised to consider our feedback before passing a final draft to the EY in late April, as well as to keep us posted on the progress. AIT will continue to monitor the issue closely. End comment.